Between the body and the politic

Reading recommendations on epidemics, international law, and history – Part I

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The mute substratum of political life. This is how Clifford Owens describes the body. When things are going well, it silently slips into the background of public life. When the body becomes threatened, however, it transforms into “the source of the most profound disturbances in the political field”. After all, we humans are, despite our highest ethical ideals and furthest scientific advances, still inescapably tethered to our bodies. Our physical health is the eye of the needle through which we have to thread everything else. As the saying goes: the healthy person desires many things, the unhealthy person only one.

Today, the body seems to have returned to centerstage. At the time of writing, COVID-19 has caused more than 160,000 deaths globally, a number that is almost certainly under-inclusive. The whole world is in lockdown to curb the threat, halting our previously presumed unstoppable global economic machinery. The economic impact will likely be devastating, and with it we will witness the unfolding of far-reaching political and legal consequences in years to come. We are confronted with a reality that is being described, somewhat incredulously, as “unprecedented”, “unknowable”, and “uncertain”. The irony, of course, is that epidemics have been with us for as long as we can remember. One might be forgiven for thinking there is nothing *more* precedented.

Perhaps this could explain the recent surge of interest in the history of epidemics, one that has swept me along. I spent the past two months or so reading about the political and social histories of epidemics, with particular interest in what these events meant for legal theory and international law. In many respects, my research is fraught: I often had to limit my reading to what I could find electronically, and I have been guided by my own disorganized interests rather than a coherent research plan. It has nonetheless been interesting and, I think, worth sharing. In this post, I discuss what I have read and share some of my thoughts, all of them quite tentative and preliminary.

The main purpose is to introduce and recommend a few useful and interesting resources, some of them scholarly and others more general. The discussion will meander through my thoughts on this topic; thoughts that circle one impression: incongruity. Epidemics seem to open up, or at least shed light upon, the immense distance between the urge for physical survival and the abstract institutionalized – legal and political – mechanisms we need to secure it. On the one hand, our bodies and the matter of our physical survival is immediate and intimate and private. Primal, even. On the other, the very nature of infectious diseases makes them impersonal, collective, transnational, and *political.*

But let's start at the beginning: the body. What happens when we encounter life-threatening disease? We have to choose between hope and hopelessness. It seems that the choice is deeply tied to one's prospects of survival. In Ovid's *Metamorphoses,* Aeacus describes how the plague at Aegina left the people without hope of recovery, wishing to die, giving up on life. Philip Ziegler, in his influential account of the Black Death, similarly describes the medieval peasant as intellectually and emotionally prepared for disaster and willing to accept it. Sometimes, such acceptance arose out of a belief that the disease was sent by God as punishment, which gave rise to "grim sense of destiny". In *Plagues and Peoples,* William McNeill describes the "wholesale demoralization and simple surrender of will" that accompanied the rapid spread of infectious disease across the Americas following its introduction by the Spanish, in some cases leading to suicide.

The lapse into hopelessness is also tied, I think, to the vitality of the social fabric that has to absorb collective dread and uncertainty. In his contribution to *Epidemics and Ideas*, Terence Ranger discusses the phenomenon of "cultural self-confidence" as a driver of a community's capacity for creating the kind of public structures and interpersonal safety nets needed to foster hope. I wonder whether we have a sufficiently robust social fabric in place today. Some of the predictions that COVID-19 will lead to dramatic increases in suicide suggest not.

Hopelessness does not only lead to resignation. It also leads to recklessness and, consequently, lawlessness. Without hope, there is nothing left to lose. Thucydides describes Athens's descent into lawlessness in the face of plague. Athenians "blithely ventured what before they would have done covertly and not just as they pleased". They decided "to spend quickly for the sake of enjoyment, holding their bodies and wealth to be alike but things of a day". Similarly, Herlihy describes in *The Black Death and the Transformation of the West* how "plague mortalities reminded survivors of their own fragile grasp on life, [prompting] some of them to spend their remaining hours in revelry". Cemeteries became the scenes of celebration, gambling, and prostitution, leading one papal official to threaten excommunication to those who commit such "unseemly acts" on the graves of the dead. In short, society disintegrates without hope. As Orwin explains, "[s]ociety owes its stability largely to the ballast provided by our everyday concerns for the body and our ability to satisfy them, and most of all to our fear of death, coupled with the hope of postponing it"(854).

This is a roundabout way of confirming what we all know: society is *nothing but* the expression of hope. That there is something to be won, and built, and preserved. And usually, we tend to opt for hope. Herlihy sets out how the Black Death led to the sense that "life itself was a desperate battle against death's dominion"(63). The story of epidemics is, more often than not, the story of this hopeful battle. Hope plunges us directly into what Bernard Williams called the first political question: "the securing of order, protection, safety, trust, and the conditions of cooperation". How am I to survive? The nature of an epidemic makes one thing abundantly clear: not alone. Solving the problem of infectious disease requires cooperation, and thus the securing of conditions for such cooperation.

One fascinating lesson from the history of epidemics is, however, that the first political question might more properly be understood as two. There is of course the glaring question: “how are we to survive?”. But nestled within any response to it lies an answer to a prior question: “who is included in this *we*?” As much as infectious diseases require collective action, they also inspire exclusion, scapegoating, and oppression. Almost all the historical accounts of infectious diseases contain stories of social fissures.

This is the first of two parts of this post with reading recommendations on epidemics, international law, and history. The second part will be published tomorrow.

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